IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

WP(C).No. 21375 of 2007(S)

AGAINST THE ORDER IN IA 1267/07 IN OP.388/2006 of FAMILY COURT,TRIVANDRUM

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PETITIONER:
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1. VISWANATHAN ASARI,
NOORANI MELEVEEDU, PACHALOOR, THIRUVALLOM P.O.,
THIRUVANANTHAPURAM.

2. LALITHA, W/O. VISWANATHAN ASARI,
NOORANI MELEVEEDU, PACHALOOR, THIRUVALLOM P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.SUMAN CHAKRAVARTHY
SMT.ZEENA SURESH
SRI.SURESH WILFRED
SMT.K.R.RIJA

RESPONDENTS: PETITIONER:

SATHISH KUMAR, S/O.VISWANATHAN ASARI,
ASARIVILAKOM VEEDU, TC.7/1776, THIRUMALA P.O.,
PANGODE, THIRUVANANTHAPURAM.

BY ADV. SRI.M.SREEKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1: A TRUE COPY OF THE O.P. TICKET OF GENERAL HOSPITAL THIRUVANANTHAPURAM DATED 18.04.2006.

EXT.P2: A TRUE COPY OF THE POSTMORTEM CERTIFICATE OF THE PETITIONER'S DAUGHER DATED 20.04.2004.

EXT.P3: A TRUE COPY OF THE INTERIM ORDER DATED 28.11.2006 IN W.P. NO. 26167/06.

EXT.P4: A TRUE COPY OF THE JUDGMENT DATED 12.04.2007 IN W.P. NO. 26167/06.

EXT.P5: A TRUE COPY OF THE COMMON ORDER DATED 25.06.2007 IN I.A. NO. 1625/07 AND I.A. 1267/07.

EXT.P6: A TRUE COPY OF IA 1267/07

EXT.P7: A TRUE COPY OF OBJECTION TO IA 1267/07.

EXT.P8: A TRUE COPY OF SCHOOL RECEIPT.

/True Copy/

P.A to Judge.

KURIAN JOSEPH & T.R. RAMACHANDRAN NAIR, JJ

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W.P.(C). NO. 21375 OF 2007

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Dated this the 19th day of July, 2007.

JUDGMENT

Kurian Joseph,J

The dispute in this case pertains to the interim custody of a smart young child Nikhil born to the respondent in late Sreekala, daughter of the petitioners. Since the main petitions from either side for guardianship is pending before the Family Court, we reluctantly refrain from making any observations in the matter, though we would have been otherwise justified in doing so, having talked to the parties extensively. We will only observe that both sides should consider the welfare of the child and his emotional, intellectual spiritual and physical moulding. In view of the fight between the parties the child is actually facing a set back of all these aspects. We hope that the parties will realise these harsh realities and try to make a settlement of the disputes between the parties by placing the welfare of the child on top of everything. We direct the Family Court, Thiruvananthapuram to dispose of the petitions regarding the guardianship of the child filed by both sides expeditiously. Till such time the following shall be the arrangements regarding the custody.

2. On the last school working day of every week, it will be open to the respondent-father to collect the child from the school after school hours. He will drop the child back on Monday or the first working day, as the case may be, of the ensuing week. The petitioners who are the grand parents of the child Nikhil will collect the child after school hours of the first working day in the week and drop the child in the school on the last working day of the week in the morning. We direct both sides to be in active communication regarding the dropping and collection of the child so that there is no room for any confusion. In case the main petitions are not disposed of by the Family Court before the summer vacation, the following shall be the arrangements with regard to the custody of the child during the ensuing Onam, Pooja and Christmas holidays. During the first half of such vacation the child shall be with the father and the second half with grand parents. The main matters shall be disposed of in any case within a period of six months from the date of production of a copy of this judgment.

The writ petition is disposed of accordingly.

KURIAN JOSEPH, JUDGE.

T.R. RAMACHANDRAN NAIR, JUDGE.

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